

CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 06/18/02

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT: Amendment to the Contract with the California Public Employees Retirement System (2.5% @ 55 Formula), and Resolution Implementing Internal Revenue Service Code Section 414 (h)(2)

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution and introduce the attached ordinance to amend the contract with PERS, and adopt the attached resolution pertaining to section 414(h)(2) of the Internal Revenue Code (IRC).

DISCUSSION:

Representatives of all "miscellaneous" (non-safety) employee groups and the City have reached agreement on the general wage increase, retirement, and duration of new, three-year Memoranda of Understanding. Included in the settlement pattern common to all groups is agreement by the City to implement the 2.5% @ age 55 retirement formula. As the details of each respective Memorandum are finalized, they will be brought forward for Council action.

The Public Employees Retirement System requires a 1% change in the employee contribution to implement the 2.5% @ age 55 formula, increasing the employee retirement contribution from 7% to 8%, which will be paid by each employee. Concurrent with implementing the enhanced formula, the City agreed to implement the provisions of IRC Section 414(h)(2) whereby the additional 1% employee contribution is paid by the employee on a pre-tax basis. There is no cost to the City to enact this reporting mechanism.

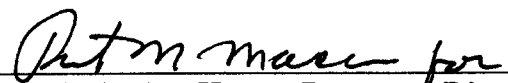
Two resolutions are required to implement these changes. PERS regulations require that a Resolution of Intention be adopted by the Council to initiate the contract amendment process. A separate Resolution is required to implement Internal Revenue Service Section 414(h)(2).

According to the Public Employees Retirement System, there is no fiscal impact to the City in the current or following fiscal years to adopt the enhanced formula.


Prepared by:


Joanne M. Baldinelli, Employee Benefits Administrator

Recommended by:


Beth Perrin-Scales, Human Resources Director

Approved by:


Jesús Armas, City Manager

Exhibits: (1) Draft Resolution Implementing 2.5% @ 55 Formula; (2) Draft Resolution Implementing IRC Section 414(h)(2)

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

me
5/30/02

**RESOLUTION OF INTENTION TO APPROVE AN
AMENDMENT TO THE CONTRACT BETWEEN THE
BOARD OF ADMINISTRATION OF THE PUBLIC
EMPLOYEES' RETIREMENT SYSTEM AND THE CITY
COUNCIL OF THE CITY OF HAYWARD**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21354.4 (2.5% @ 55 Full formula) for local miscellaneous members.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto as Exhibit "A" and by this reference made a part hereof.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

ORDINANCE NO. _____

mm
5/30/02

AN ORDINANCE AUTHORIZING AN AMENDMENT TO
THE CONTRACT BETWEEN THE CITY COUNCIL OF THE
CITY OF HAYWARD AND THE BOARD OF
ADMINISTRATION OF THE CALIFORNIA PUBLIC
EMPLOYEES' RETIREMENT SYSTEM

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. That an amendment to the contract between the City Council of the City of Hayward and the Board of Administration of the California Public Employee's Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked "Exhibit A," and by such reference made a part hereof as though herein set out in full.

Section 2. The Mayor of the City of Hayward is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City.

Section 3. This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of _____ days from the passage thereof shall be published at least _____ in the Daily Review, a newspaper of general circulation, published and circulated in the City of Hayward and thenceforth and thereafter the same shall be in full force and effect.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2002, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2002, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN:

ABSENT:

APPROVED _____
Mayor of the City of Hayward

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

EXHIBIT A

THE REFERENCED CONTRACT IS ON FILE
IN THE CITY CLERK'S OFFICE FOR REVIEW

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

mae
5/30/02

RESOLUTION IMPLEMENTING INTERNAL REVENUE
SERVICE CODE SECTION 414 (h)(2) CONCERNING
PAYMENT OF EMPLOYEE CONTRIBUTIONS TO THE
PUBLIC EMPLOYEES RETIREMENT SYSTEM ON BEHALF
OF MEMBERS OF THE SERVICE EMPLOYEES
INTERNATIONAL UNION, SEIU LOCAL 790;
INTERNATIONAL FEDERATION OF PROFESSIONAL AND
TECHNICAL EMPLOYEES, IFPTE LOCAL 21; HAYWARD
ASSOCIATION OF MANAGEMENT EMPLOYEES, HAME;
NON-REPRESENTED EMPLOYEES, AND ELECTED
OFFICIALS

WHEREAS, the City of Hayward has entered into a Memorandum of Understanding or Salaries and Resolutions Agreement with the Service Employees International Union, SEIU Local 790; International Federation of Professional And Technical Employees, IFPTE Local 21; Hayward Association of Management Employees, HAME; Non-Represented Employees, and Elected Officials, for the period beginning July 1, 2002; and

WHEREAS, the City of Hayward has the authority to implement the provisions of section 414 (h)(2) of the Internal Revenue Code (IRC); and

WHEREAS, the Board of Administration of the Public Employees' Retirement System adopted its resolution re: Section 414 (h)(2) IRC on September 18, 1985; and

WHEREAS, the Internal Revenue Service has stated in December 1985, that the implementation of the provisions of section 414 (h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414 (h) (2) IRC; and

WHEREAS, the City of Hayward had determined that even though law does not require the implementation of the provisions of section 414 (h)(2) IRC, the tax benefit offered by section 414 (h)(2) IRC should be provided to its employees who are members of the Public Employees' Retirement System:

- I. That the City of Hayward will implement the provisions of section 414 (h)(2) IRC by making employee contributions pursuant to California Government Code section 20691 to the Public Employees' Retirement System on behalf of its employees who are members of the Public Employees' Retirement System.

"Employee contributions" shall mean those contributions to the Public Employees' Retirement systems, which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code section 20691.

- II. That the contributions made by the City of Hayward to the Public Employees' Retirement System, although designated as employee contributions, are being paid by the City of Hayward in lieu of contributions by the employees who are members of the Public Employee's Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Hayward to the Public Employees' Retirement System.
- IV. That the City of Hayward shall pay to the Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the City of Hayward to the Public Employees' Retirement System on behalf of employees shall be the entire contribution required of the employee by the Public Employees' Retirement law (California Government Code sections 2000, et seq.).
- VI. That the contributions designated as employee contributions made by the City of Hayward to the Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the Public Employees' Retirement System.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, effective August 29, 2002, the City shall implement Internal Revenue Service Code section 414 (h)(2).

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward